

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-1050; NRC-2016-0231]

**Waste Control Specialists LLC's Consolidated Interim Spent Fuel
Storage Facility Project**

AGENCY: Nuclear Regulatory Commission.

ACTION: License application; docketing and opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received a license application from Waste Control Specialists, LLC (WCS), by letter dated April 28, 2016, as supplemented on July 20, August 19, August 31, September 27, October 7, November 16, December 16, and December 22, 2016, respectively. By this application, WCS is requesting authorization to construct and operate a Consolidated Interim Storage Facility (CISF) for spent nuclear fuel at WCS's facility in Andrews County, Texas. If the application is approved and WCS is licensed by the NRC, they intend to store 5,000 metric tons uranium (MTU) in the CISF for a period of 40 years.

DATES: A request for a hearing or petition for leave to intervene must be filed by **March 31, 2017**.

ADDRESSES: Please refer to Docket ID **NRC-2016-0231** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2016-0231**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0262; e-mail: John-Chau.Nguyen@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received an application from WCS for a specific license pursuant to part 72 of title 10 of the *Code of Federal Regulations* (10 CFR), "Licensing Requirements for the

Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.” The WCS is proposing to construct a CISF on its approximately 60.3 square kilometer (14,900 acre) site in western Andrews County, Texas. On this site, WCS currently operates facilities that process and store Low-Level Waste and Mixed Waste (i.e., waste that is considered both hazardous waste and Low-Level Waste). The facility also disposes of both hazardous waste and toxic waste.

According to its application WCS plans to construct the CISF in eight phases. Phase one of the CISF would be designed to provide storage for up to 5,000 MTU received from commercial nuclear power reactors across the United States. The WCS proposes that small amounts of mixed oxide spent fuels and greater than Class C wastes also be stored at the CISF. The WCS stated that it would design each subsequent phase of the CISF to store up to an additional 5,000 MTU for a total of up to 40,000 MTU being stored at the site by the completion of the final phases. Each phase would require NRC review and approval.

The WCS would receive canisters containing spent nuclear fuel from the reactor sites, and once accepted at its site, WCS would transfer them into onsite dry cask storage systems. The WCS application stated that it would employ dry cask storage system technology that has been licensed by the NRC pursuant to part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) at various commercial nuclear reactors across the country. The application also stated that the dry cask storage systems proposed for use at the CISF would be passive systems (i.e., not relying on any moving parts) which would provide physical protection, confinement, nuclear criticality control and radiation shielding for the safe storage of the spent nuclear fuel. The dry cask storage systems would be located on top of concrete pads constructed at the CISF. The applicant is requesting a 40-year license term.

In a letter dated July 21, 2016, WCS also requested that the NRC initiate its environmental impact statement (EIS) process for the WCS application as soon as practicable.

The NRC informed WCS of its decision to start the EIS process in advance of making a decision either to docket or to reject the application, in a letter dated October 7, 2016. On November 14, 2016, the NRC published a notice in the *Federal Register* (81 FR 79531) announcing its intent to prepare an EIS and to open an EIS scoping period.

An NRC administrative completeness review found the application acceptable for a technical review. Prior to issuing the license, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (AEA), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report and an EIS.

II. Opportunity to Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d), the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and

extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner’s interest in the proceeding. The petition should be submitted to the Commission by March 31, 2017. The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed

in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due

date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery

service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

IV. Availability of Documents

The documents identified in this <i>Federal Register</i> notice are accessible to interested persons by the means indicated in either the SUPPLEMENTARY INFORMATION section of this notice or in the table below.	DOCUMENT ADAMS ACCESSION NUMBER
WCS's CISF license application, with Environmental Report	ML16133A070
NRC request for supplemental information	ML16175A277
WCS letter with schedule for response to NRC request for supplemental information	ML16193A314
WCS initial information submittal in response to NRC request for supplemental information	ML16229A537
WCS submittal of supplemental security information	ML16235A467
WCS request for NRC to begin EIS process as soon as practicable	ML16229A340
WCS second information submittal in response to NRC request for supplemental information	ML16265A454
WCS submittal of supplemental security information	ML16280A300
NRC response to WCS request to begin EIS process as soon as practicable	ML16285A317
WCS submittal of third information set to NRC request for supplemental information	ML16287A527
WCS fourth information submittal in response to NRC request for supplemental information	ML16330A116

WCS fifth information submittal in response to NRC request for supplemental information	ML16356A346
WCS sixth information submittal in response to NRC request for supplemental information	ML17018A292
NRC letter accepting application for review	ML17018A168

Dated at Rockville, Maryland, this 23rd day of January 2017.

For the Nuclear Regulatory Commission.

/RA/

John McKirgan, Chief,
Spent Fuel Licensing Branch,
Division of Spent Fuel Management,
Office of Nuclear Material Safety
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